November 30, 2018
ACO-020

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NATIONAL LABOR RELATIONS BOARD	)
	) **Case No.**
Petitioner	) **18-2939**
	)
v.	)
	) **Board Case No.**
HARD HAT SERVICES, LLC	) **04-CA-196783**
	)
Respondent	)
	)

Before: MCKEE, SHWARTZ and BIBAS, Circuit Judges

CONSENT JUDGMENT

THIS CAUSE came to be heard upon an application of the National Labor Relations Board to enforce the Board's Order against Hard Hat Services, LLC, in Board Case No. 04-CA-196783, reported at 366 NLRB No. 106; and the parties having advised this Court of their desire to dispose of this matter by entry of a consent judgment enforcing the Board's Order;

IT IS HEREBY ORDERED AND ADJUDGED by the Court that the said Order of the National Labor Relations Board is hereby enforced and that Hard Hat Services, LLC, Norristown, Pennsylvania, its officers, agents, successors, and assigns, shall abide by and perform the directions of the Board set forth in its Order. (See attached Order and Appendix)

Mandate shall issue forthwith.

BY THE COURT

s/ Theodore A. McKee
Circuit Judge

DATED: January 10, 2019

NATIONAL LABOR RELATIONS BOARD

v.

HARD HAT SERVICES, LLC, A SINGLE EMPLOYER

ORDER

Hard Hat Services, LLC, Norristown, Pennsylvania, its officers, agents, successors, and assigns, shall

1. Cease and desist from

    (a) Coercively interrogating employees about their union membership, activities, sympathies, and/or support.

    (b) Refusing to hire or consider for hire employee-applicants because of their union affiliation.

    (c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

    (a) Within 14 days of the date of this Order, offer employment to Robert Weeks and Michael O'Leary in the positions for which they applied, or, if such positions no longer exist, to substantially equivalent positions.

    (b) Make Robert Weeks and Michael O'Leary whole for any loss of earnings and other benefits suffered as a result of the discrimination against them, in the manner set forth in the remedy section of the judge's decision as amended in this decision.

    (c) Compensate Robert Weeks and Michael O'Leary for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 4, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.

    (d) Within 14 days of the date of this Order, remove from Respondent's files any reference to the unlawful refusal to hire Robert Weeks and Michael O'Leary and, within 3 days thereafter, notify them in writing that this has been done and that the refusal to hire them will not be used against them in any way.

(e) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(f) Within 14 days after service by the Region, post at its Norristown, Pennsylvania facility, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since February 27, 2017.

(g) For a period of 60 consecutive days, include a copy of the attached notice marked "Appendix" with any advertisements for future job openings, whether issued directly or through its agent, YourHR, and whether in written or electronic form.

(h) Within 14 days after service by the Region, sign and return to the Regional Director for Region 4 sufficient copies of the notice for posting by YourHR, if YourHR is willing, at all locations where notices to its employees are customarily posted.

(i) Within 21 days after service by the Region, file with the Regional Director for Region 4 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES

POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES
COURT OF APPEALS ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO
Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT coercively question you about your union membership, activities, sympathies, and/or support.

WE WILL NOT refuse to hire or consider for hire employee-applicants because of their union affiliation.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, within 14 days from the date of the Board's Order, offer employment to Robert Weeks and Michael O'Leary in the positions for which they applied, or, if such positions no longer exist, to substantially equivalent positions.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful refusal to hire Robert Weeks and Michael O'Leary, and WE WILL, within 3 days thereafter, notify them in writing that this has been done and that the refusal to hire will not be used against them in any way.

WE WILL make Robert Weeks and Michael O'Leary whole for any loss of earnings and other benefits resulting from our refusal to hire them, less any net interim earnings, plus interest, and WE WILL also make such employees whole for reasonable search-for-work and interim employment expenses, plus interest.

WE WILL compensate Robert Weeks and Michael O'Leary for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and WE WILL file with the Regional Director for Region 4, within 21 days of the date the amount of backpay

is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years for each employee.

HARD HAT SERVICES, LLC

The Board's decision can be found at www.nlrb.gov/case/04-CA-196783 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.